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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,135	11/25/2003	Robert Kronenberger	00130P0146US	6333

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EXAMINER	
SUTTON, ANDREW W	

ART UNIT	PAPER NUMBER
3765	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/721,135	KRONENBERGER, ROBERT	
	Examiner	Art Unit	
	Andrew W. Sutton	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 5-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 5-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

The new matter rejection made in the previous office action is withdrawn.

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claims 16 and 18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations in claim 16 has been previously claimed in claims 1, lines 15-17 and claims 6 & 7. Secondly, it is unclear how claim 18 further limits the device. If the information is on the front left or right side, wouldn't that mean it is first information as defined in claim 1?

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant claims that the plurality of logos in at least one octant have a normal orientation and are skewed from normal orientation. How can the

logos have a normal orientation and skewed from normal orientation at the same time? Clarification is needed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-3, 5-9, 11-15, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loeffelholz (US 6,175,963) in view of Kronenberger (US 6,370,696). Loeffelholz illustrates a hat in fig. 2 including a logo 32 that are can be placed at various points around the circumference of the crown portion of the hat. The hat has a front, rear, left and right side as the applicant claims. The hat of Loeffelholz has the eight octants claimed since, as the applicant states, "the octants are not discernable, viewable divisions" and have no structure. The hat of Loeffelholz has a forwardly extending brim 24 with not other brims protruding from the hat and is a conventional style cap. Loeffelholz does not explicitly disclose a front right or left side identifying an event or showing a plurality of participants on the various rear and side octants claimed. Kronenberger discloses a cap in Figs. 1-5 and 10-15 that discloses various designs that include school, object, information, team, email, etc. at various points around the cap. It would have been obvious to one of ordinary skill in the art to place the information such as sporting event, and participants on a cap in the various positions claimed. Further, it

is the opinion of the examiner that the information claimed, provides no structure to the cap that is not shown in the prior art are mere design choices. In regards to aesthetic design changes, *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947), "The court found that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art." The applicants claims no structural limitations that the prior does not show, as stated in the previous and current office actions.

As to claims 2-3, 6-8, 11-14, and 16-18, the claims provide no structural limitations to the cap and are mere design choices of logos/information that would have been obvious to one of ordinary skill in the art. Whether nor not a person can see or identify a logo/information would be based on totally a specific situation as to where the viewer is viewing the hat and also provides no structure limiting the hat. The various placement of logos and information provide no structural limiations over the prior art and also are mere design choices and would have been obvious to one of ordinary skill in the art as shown in Figs. 1-5 and 10-15.

As to claim 5, Kronenberger illustrates in Fig. 13 the hole number on a golf course being placed on the hat at the bill 24.

As to claim 9, Kronenberger illustrates the crown portion 10 of the cap being an inverted cup shape as shown in Fig. 13.

As to claim 15, Kronenberger discloses that logos can be embroidered (Col. 2 line 24).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loeffelholz (US 6,175,963) in view of Kronenberger (US 6,370,696) in further view of Park (US 6,408,443). Loeffelholz/Kronenberger teaches the device substantially above. However Loeffelholz/Kronenberger does not teach the use a hat that is made in the form of a visor. Park teaches (Fig. 2) that hats including logos 11 can have an opening 1 in the crown area. It is commonly known in the art to make hats in the form visors. It would have been obvious to one of ordinary skill in the art to combine the teaching of Loeffelholz/Kronenberger and Park to give a hat that would allow for increase airflow.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loeffelholz (US 6,175,963) in view of Kronenberger (US 6,370,696) in further view of Armstrong (US 5,584,076). Loeffelholz/Kronenberger teaches the device substantially above. However, Loeffelholz/Kronenberger does not teach the use of an adjustable strap along with an opening with a logo provided on the adjustable portion of the hat. Armstrong illustrates in Fig. 1 an opening in the back of the hat with an adjustable strap 20 located across the opening. A logo 46 is located on the hat. Armstrong does not explicit state that the logo identifies an event. However, the applicant does not state any unexpected results or criticality as to why the logo must identify an event. The examiner feels that the logo of Armstrong is capable of identifying an event. It would have been obvious to one of ordinary skill in the art to combine the opening and strap of Armstrong to the hat of Loeffelholz/Kronenberger to provide adjustability in the hat to allow for the ability of wearer's with multiple head sizes.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner feels that the following website shows the claimed invention. http://www.lids.com/pop/product_images.html?pid=20055237&image=1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew W. Sutton whose telephone number is (571) 272-6093. The examiner can normally be reached on Monday - Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AWS
5/15/06

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